IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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(1) FAO-3185-2016 (O&M)
Date of decision: 16.08.2022

Shriram General Insurance Co. Ltd. .....Appellant

Versus

Jaswinder Kaur and others .....Respondents

(2) FAO-3623-2016
Date of decision: 16.08.2022

Jaswinder Kaur and others .....Appellants

Versus

Bhupinder Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Punit Jain, Advocate
for the appellant in FAO-3185-2016 and
for respondent No.3 in FAO-3623-2016.

Mr. Vivek Suri, Advocate for
for respondents No.1 to 6 in FAO-3185-2016 and
for the appellants in FAO-3623-2016.

Mr. Sanjay Jain, Advocate
for respondents No.7 and 8 in FAO-3185-2016 and
for respondents No.1 and 2 in FAO-3623-2016.

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MANJARI NEHRU KAUL, J. (ORAL)

CM-11483-CII-2016

For the reasons mentioned in the application, the same is allowed and delay of 14 days in filing the appeal is condoned.

Main Cases

This order shall dispose of above referred two appeals as they both have arisen out of the same accident and the challenge too is to the same award dated 04.01.2016 passed by learned Motor Accidents Claims Tribunal, Patiala (for short, 'the Tribunal'). While FAO-3185-

2016 has been preferred by the insurance company, FAO-3623-2016 has been preferred by the claimants. The claimants were awarded the following compensation on account of death of Pyara Singh @ Piyara Singh (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 29.09.2011:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.10,000/-
2.	Monthly income after adding future prospects (30%)	Rs.13,000/-
3.	Deduction towards personal expenses (1/4th)	Rs.3,250/-
4.	Dependency of the claimants	Rs.9,750/-
5.	Compensation after applying multiplier of '14'	Rs.9,750 x 12 x 14 = Rs.16,38,000/-
6.	Consortium	Rs.1,00,000/-
7.	Funeral expenses	Rs.25,000/-
	Total Compensation	Rs.17,63,000/-

The claimants were held entitled to total compensation of Rs.17,63,000/- along with interest @ 9% per annum from the date of institution of claim petition till the realization of amount in question, which was to be paid by the insurance company, owner and driver of the offending vehicle jointly and severally. Claimant No.1 being widow of the deceased was held entitled to 50% of the compensation amount, claimants No.2 to 4 being children and claimants No.5 and 6 being parents of the deceased were held entitled to 10% each of the compensation amount.

The insurance company is impugning the quantum of compensation awarded to the claimants. Learned counsel for the insurance company (appellant in FAO-3185-2016) has vehemently argued that the compensation awarded by the Tribunal was on the higher side and not in consonance with the settled law as laid down in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333***. While drawing the attention of this Court to the compensation awarded learned counsel has argued that the deceased was more than 40 years of age on the date of accident in question and hence the compensation with respect to future prospects should have been only to the extent of 25%, however, the Tribunal had erred in assessing it to the extent of 30%. It has further been argued that the Tribunal failed to appreciate that the claimants had not suffered any financial losses on account of the death of the deceased as they were continuing to derive income from their business and agricultural land. He submits that at best the monthly income of the deceased should have been assessed at Rs.4,368/-, by treating him as a semi-skilled worker as per the minimum wages notified for the relevant period by the State Government.

Per contra, learned counsel for the claimants (appellants in FAO-3623-2016) while opposing the prayer and submissions made by the counsel opposite submits that the compensation was on the lower side and thus required to be reassessed and modified as per the settled law. Learned counsel for the claimants has argued that the date of birth of the deceased was 10.05.1973 as per the documentary evidence led, and hence on the date of accident i.e. 29.09.2011 he was less than 40 years. He submitted that in the circumstances the claimants were entitled to compensation to the extent of 40% qua future prospects. It was also submitted that since the deceased was running a business in addition to also being an agriculturist his income should have been assessed at least Rs.35,000/- per month. Still further, learned counsel for the claimants has submitted that the claimants who are widow, three children and parents of the deceased had not been awarded any compensation for loss of consortium (spousal, parental, filial) and thus they were entitled to the same as well.

I have heard learned counsel for the parties and perused the relevant material on record.

The monthly income of the deceased which has been assessed at Rs.10,000/- per month by the Tribunal does not warrant any interference of this Court. However, this Court concurs with the submissions made by learned counsel for the claimants that since the age of the deceased was 39 years on the date of accident, the correct multiplier applicable would be '15' and not '14' which has been erroneously applied by the Tribunal. Since the deceased was less than 40 years of age on the date of accident, the claimants would be entitled to compensation qua future prospects to the extent of 40%. The Hon'ble Supreme Court in ***Pranay Sethi's case*** *(supra)* has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- each for loss of consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10%

enhancement *qua* the above-mentioned conventional heads as per the ratio laid down in ***Pranay Sethi's case*** *(supra)*. Hence, the amount of compensation under the conventional heads stands modified to Rs. 16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are widow, minor children and parents of the deceased, are entitled to Rs.44,000/- each, for loss of spousal, parental and filial consortium respectively.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.10,000/-
2.	Annual Income	Rs.10,000/- x 12 = Rs.1,20,000/-
3.	Future prospects (40%)	Rs.1,20,000/- x 40% = Rs.48,000/-
4.	Total annual income	Rs.1,20,000/- + Rs.48,000/- = Rs.1,68,000/-
5.	Deductions towards personal expenses (1/4th)	Rs.1,68,000/- / 4 = Rs.42,000/-
6.	Loss of annual future earnings	Rs.1,68,000/- (-) Rs.42,000/- = Rs.1,26,000/-
7.	Multiplier	15
8.	Loss of future earnings	Rs.1,26,000/- x 15 = Rs.18,90,000/-
9.	Loss of consortium	Rs.44,000/- x 6 = Rs.2,64,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.21,87,000/-

The claimants are, therefore, held entitled to a total sum of Rs.21,87,000/- as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, which shall be paid by the insurance company, owner and driver of the offending vehicle jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, both the appeals stand disposed of in the above terms.

16.08.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No